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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Revision of Part 22 of the)
Commission's Rules Governing)
the Public Mobile Services)

CC Docket No. 92-115

To: The Commission

COMMENTS OF NEW PAR

New Par hereby submits, by its counsel, comments in response to the Further Notice of Proposed Rule Making ("Further Notice") in the above-captioned proceeding.¹

STATEMENT OF INTEREST

New Par, through partnerships or subsidiaries, operates cellular systems in 22 MSAs and RSAs throughout the States of Ohio and Michigan, including five of the top 40 MSAs.² As such, New Par and the licensees it

¹ Revision of Part 22 of the Commission's Rules Governing the Public Mobile Services CC Docket No. 92-115 FCC 94-102 (released May 20, 1994) ("Further Notice").

² New Par is a partnership controlled equally by subsidiaries of Cellular Communications, Inc. ("CCI"), a publicly traded company, and AirTouch Communications, Inc. ("AirTouch"), a publicly traded company formerly

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controls will be affected by the rules the Commission adopts in connection with the proposals offered in the Further Notice.³

I. NEW PAR SUPPORTS ELIMINATION OF THE FILING REQUIREMENTS FOR INTERNAL CELLS

In the initial 1992 Notice released in this docket the Commission proposed to eliminate the filing requirement for all minor modifications without regard to the market boundary.⁴ In the Further Notice the Commission proposes to continue licensing external cells⁵ and to eliminate the filing requirement (and thereby, the licensing requirement) for all internal cells.⁶ In addition, the Further Notice proposes to require cellular carriers to make a one-time filing to supply certain

²(...continued)

known as PacTel Corporation, then a subsidiary of Pacific Telesis Group.

³ New Par also filed comments in response to the Commission's initial Notice of Proposed Rulemaking in (7 FCC Rcd 3658 (1992) ("Notice")) this docket. See New Par Comments filed October 15, 1992.

⁴ See Notice, 7 FCC Rcd at 3660-61, 3667, 3694.

⁵ External cells are defined as those cells that constitute the system's CGSA boundary. See Further Notice, at ¶ 7.

⁶ Further Notice, at ¶ 7-9.

technical and location information for all their external cells to assist the Commission in updating its database.⁷

New Par's comments filed in response to the 1992 Notice supported the Commission's initial proposal to eliminate the filing requirements for all minor modifications.⁸ Consistent with those comments, New Par also supports the Commission's latest proposal with regard to eliminating the filing requirement for internal cells only. As the Commission noted "these notifications are routine" and their elimination would "conserve Commission and industry resources."⁹ Further, eliminating the filing requirement is entirely consistent with the Commission's effort to promote competition and facilitate delivery and improved mobile service to the public.¹⁰

New Par suggests, however, that the Commission clarify that "internal" cells for which no filing will be required also includes those cells that do not comprise the CGSA boundary in markets where the borders have been consolidated. In New Par's case where it operates multi-

⁷ Further Notice, at ¶ 7.

⁸ New Par Comments at 8-9.

⁹ Notice, 7 FCC Rcd at 3660-61, 3667.

¹⁰ See Further Notice, at ¶ 2.

ple systems, minor modifications are made regularly to internal cells along consolidated borders to improve service in both markets. Such modifications are "internal" to the consolidated market and thus, should not require a separate filing. Elimination of the filing requirement would reduce administrative costs without sacrificing any public interest benefits.

New Par also suggests that the Commission make clear that the elimination of the filing requirement does not relieve carriers from their obligation to frequency coordinate with adjacent carriers in accordance with Section 22.902(d).¹¹ The frequency coordination process is critical to protecting against inter-system interference. Once the Form 489 filing requirement is eliminated carriers experiencing interference will not have any readily available source, except for the prior coordination data, for identifying and resolving any such interference caused by the adjacent market carrier.¹²

¹¹ 47 C.F.R. § 22.902(d).

¹² For the reason stated in its Reply Comments, the Commission should also clarify that cellular licensees are entitled to interference protection for all cellular facilities -- including those constructed without the filing of a Form 489 -- so long as the cell's service area boundary is contained within the licensee's CGSA. See New Par Reply Comments filed November 5, 1992 at 2. (continued...)

II. THE NOTIFICATION REQUIREMENT SHOULD BE ELIMINATED
FOR ALL TYPES OF CELLULAR SERVICES THAT WILL NOT
CAUSE HARMFUL INTERFERENCE TO ADJACENT CARRIERS

Consistent with its intent to eliminate unnecessary filings, New Par recommends that the Commission also eliminate the notification requirement for "fixed" cellular services and similar services operated in connection with the cellular system. Section 22.308 requires carriers intending to operate "incidental" services to file a letter notification to commencing operation of such services. New Par submits that such incidental services do not pose a serious risk of interference and should be permitted without notification. Eliminating the filing requirements for fixed and other incidental services would be consistent with the Commission's recent modification to Section 22.930 to allow "PCS" type services to be offered without filing a Form 489.¹³

¹²(...continued)

See also Notice, 7 FCC Rcd at 3667 (suggesting that internal sites "might not be protected from interference").

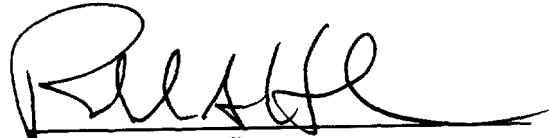
¹³ See Second Report and Order, 8 FCC Rcd 7700 (1993). New Par also requests that the Commission clarify that wireless PBXs that communicate through the MTSO of the cellular system are treated as customer premise equipment ("CPE") and not cell enhancers or base stations. Such a clarification will eliminate any confusion regarding the necessary filing requirements and the carriers' obligations under other applicable rule sections.

CONCLUSION

For the foregoing reasons, New Par supports the Commission's proposed elimination of the filing requirements for internal cells as modified in accordance with these comments.

Respectfully submitted,

By:

A handwritten signature in dark ink, appearing to read 'R. Casey', written over a horizontal line.

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